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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,470	03/25/2004	Steven M. Hansen	AD7006USNA	8340

23906 7590 09/09/2005

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/809,470	Applicant(s) HANSEN ET AL	
	Examiner Irina S. Zemel	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 14-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>#30-2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8, 11, 13, 30-31 are rejected under 35 U.S.C. 102(a or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 02/0837794 to E. I. DuPont De Nemours, (hereinafter "DuPont").

Dupont discloses compositions containing polymeric matrix and short aramid microfibers such as Kevlar. Among suitable polymeric matrix materials, polyesters, specifically polyethylene terephthalate homo- and co-polymers are expressly disclosed on page 4, first full paragraph. The aramid fibers, which amount if the disclosed composition fully correspond to the claimed amounts (see page 6, lines 18-22) can be commercially available microfibers such as Kevlar, or any aramid microfibers prepared in accordance with various methods disclosed on pages 4 and 5 of the DuPont reference. The reference further expressly teaches addition of fillers and tougheners, (page 6, lines 23-27), and expressly discloses applicability of the composition for production of molded articles, films, filaments etc. The reference does not expressly disclose the process by which the microfibers are prepared that corresponds to the claimed method. However, the claims are directed to the product and not the process (even though the product is claimed in the product-by-process format). In such claims, the patentability of the product claims depends solely on the product characteristics regardless of the process by which the product was obtained. So long as the claimed

product and the product disclosed in the prior art exhibit same properties, the product is deemed unpatentable over the prior art. In the instant case, since the size and the composition of the microfibers in the reference is identical to the claimed microfibers, it is reasonable believed that the compositions disclosed in the DuPont reference inherently exhibit the same properties as the claimed composition, thus meeting the claim limitations. The burden is shifted to the applicants to provide evidence to the contrary.

Claims 1-3, 7-11, 13 and 30-32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 6,103,779 to Guzauskas (hereinafter "Guzauskas").

Guzauskas discloses compositions that comprise a polymer and short fiber filler. Among polymers, polyesters are expressly listed in column 6, lines 17-20. Thshort fibers disclosed by the reference can be organic (such as aramid) or inorganic (such as those listed in column 6, lines 37-55, which fully correspond to the claimed fillers. Various additives, including metal oxides and reinforcing fillers are disclosed in paragraph bridging columns 6 and 7. The reference further expressly discloses molded articles, films and filaments. See abstract, column 20. Once again, the reference does not disclose a method for obtaining fibers that correspond to the claimed method, but, since the characteristics and the amounts of the claimed mocrofibers disclosed in the reference are identical to the claimed microfibers, it is reasonably believed that teh compositions disclosed in the reference inherently exhibit the same properties as the

claimed composition, thus meeting the claim limitations. The burden is shifted to the applicants to provide evidence to the contrary.

Claims 1-5, 7-8, and 30-32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent 6,068,922 to Vercesi et al., (hereinafter "Vercesi").

Vercesi discloses compositions containing polymeric matrix and short aramid microfibers such as Kevlar. Among suitable polymeric matrix materials, polyesters, specifically polyethylene terephthalate polymers are expressly disclosed in column 3, line 55. The aramid fibers, which amount if the disclosed composition fully correspond to the claimed amounts as per paragraph bridging columns 3-4, can be commercially available microfibers such as Kevlar, or any aramid microfibers, which contain volatile solvent. The reference does not expressly disclose the process by which the microfibers are prepared that corresponds to the claimed method. However, the claims are directed to the product and not the process (even though the product is claimed in the product-by-process format. In the instant case, since the size and the composition of the microfibers in the reference is identical to the claimed microfibers, it is reasonable believed that the compositions disclosed in the DuPont reference inherently exhibit the same properties as the claimed composition, thus meeting the claim limitations. The burden is shifted to the applicants to provide evidence to the contrary.

Claim Rejections - 35 USC § 103

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over DuPont or Guzauskas.

The disclosure of the referenced is discussed above. The references, while expressly disclosing various fillers, including pigments, and metal oxides do not expressly list titanium dioxide as one of the fillers. However, titanium dioxide is notoriously known white pigment widely used in polymeric compositions. It is the examiners position that addition of TiO₂ to the compositions disclosed by either one of the reference would have been obvious for an ordinary artisan for its notoriously known function as a pigment.

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 30-32 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Irina S. Zemel
Examiner
Art Unit 1711

A handwritten signature in black ink, appearing to read 'Irina Zemel', written in a cursive style.

ISZ